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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,002	10/09/2001	William M. Raveis JR.	455850.0076	4316

7590 03/24/2005

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EXAMINER

COSIMANO, EDWARD R

ART UNIT	PAPER NUMBER
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3639

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/974,002

Applicant(s)

RAVEIS, WILLIAM M.

Examiner

Edward R. Cosimano

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/26/02; 6/19/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3629

1. Applicant's claim for the benefit of an earlier filing data under 35 U.S.C. § 119(e) and 35 U.S.C. § 120 is acknowledged.

2. The drawings are objected to because

A) the drawings must show every feature of the invention specified in the claims, therefore, the subject matter of:

(1) claims 8, 16 & 22 in regard to the preventing the customer and/or agent from viewing notes made by the coordinator; must be shown in the drawings as required by 37 CFR § 1.83(a) or the feature(s) canceled from the claim(s) (note: no new matter should be entered).

B) the following errors have been noted in the drawings:

(1) the drawings lack fig. 13 as mentioned in the paragraph located at page 13, lines 13-15, "FIG. 13 is a flowchart depicting a process for tracking transactions related to contacts from contact to close in accordance with an embodiment of the present invention.";

2.1 Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities:

A) applicant must update:

(1) the continuing data in the paragraph located

(a) at page 1, lines 2-6, "This application is a continuation-in-part of U.S. Patent Application Serial No. 09/459,234, filed December 10, 1999, U.S. Patent Application Serial No. 09/759,621, filed January 11, 2001, U.S. Patent Application Serial No. 09/798,656 filed March 1, 2001, and U.S. Provisional Patent Application Serial No. 60/260,688 filed January 9, 2001, each of which are incorporated herein by reference in their entirety.";

(b) at page 9, lines 10-15, "An automated system of notification is provided to any party having access to the transaction tacking process. Notification can take place via a variety of different methods. The methods of notification include, but are not limited to, a real estate management software program such as disclosed in U.S. Patent Application No. 09/459,234 to Raveis, Jr. filed December 10, 1999, the Internet, email, wireless devices. computers, telephones and hand held devices such as personal digital assistants.";

where it is noted that application serial number 09/459,234 is not patent number 6,321,202 and application serial number 09/759,621 is abandoned;

with the current status of each of the referenced applications, e.g., --now abandoned--, or --now patent #?--, or --which is abandoned and now serial number #?--, --which is expired--, etc.

B) the subject matter of:

(1) claims 8, 16 & 22 in regard to the preventing the customer and/or agent from viewing notes made by the coordinator;

lacks antecedent basis within the specification as required by 37 CFR § 1.75(d1).

Appropriate correction is required.

4. The specification and drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification or drawings.

Art Unit: 3629

Applicant should note the requirements of 37 CFR § 1.52, 37 CFR § 1.74, § 1.75, § 1.84(o,p(5)), § 1.121(a)-1.121(f) & § 1.121(h)-1.121(i).

5. Claims 8, 16 & 22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5.1 The subject matter of:

A) claims 8, 16 & 22 in regard to the preventing the customer and/or agent from viewing notes made by the coordinator;

lacks antecedent basis within the specification as required by 37 CFR § 1.75(d1).

5.2 For the above reason(s), applicant has failed to particularly point out what is regarded as the invention.

6. 35 U.S.C. § 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".

6.1 Claims 1-26 are rejected under 35 U.S.C. § 101 because the invention as claimed is directed to non-statutory subject matter.

6.1.1 The instant claims recite a method comprising a series of steps to be performed, (claims 1-26), which have a disclosed practical application in the technological or useful arts. Further, the instant claims do not merely define either a computer program, a data structure, non-functional descriptive material, (i.e. mere data) or a natural phenomenon.

6.1.2 In regard to claims 1-26, the invention as set forth in these claims merely describes:

A) in regard to claims 1-8 & 17-22, a method of creating a database in which various parties may enter data/information;

B) in regard to claims 9-16, a method of creating a database in which various entities may enter data/information; and

C) in regard to claims 23-26, a method of creating a database in which various parties may monitor entered data/information.

Art Unit: 3629

However, the process as recited in these claims does not require the result of either the claim as a whole or the manipulations of data as recited in these claims be applied in any manner so as to be tangibly used in a concrete manner and hence to produce a useful concrete and tangible result, that is a concrete and tangible application with in the technological or useful arts.

6.1.3 It is further noted that applicant has not recited in these claims a specific process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, which is either:

- A) altered or changed or modified by the invention recited in claims; or
- B) utilizes the result of the invention recited in these claims; or
- C) is operated or controlled by the result of the invention recited in these claims.

6.1.4 It is further noted in regard to claims 1-26, that as claimed applicant has not claimed:

A) pre computer processing, since the claims fail to recited that the data, which originates from an unknown source, is manipulated or transformed/changed before it is processed by the claimed invention; or

B) post computer processing, since the claims fail to recited that the data which represents the result of the claimed manipulation, is neither manipulated nor used nor changed by any device after it has been processed by the claimed invention; or

C) a practical use of the claimed invention by any physical system or device or method outside of the claimed invention other than a statement of the intended use of the claimed invention; or

D) process steps or physical acts/operations by the claimed invention that would affect the internal operation of a computer/machine as were found to be statutory in either In re McIlroy 170 USPQ 31 (CCPA, 1971) or In re Waldbaum 173 USPQ 430 (CCPA, 1972); or

E) process steps or physical acts/operations by the claimed invention that would be considered as going beyond the manipulation of “abstract ideas” as were found to be non-statutory in In re Warmerdam 31 USPQ2d 1754 (CAFC, 1994); or

F) a concrete and tangible practical application of either:

Art Unit: 3629

(1) the invention as a whole; or

(2) the final results of the manipulations/actions with in the technological

or useful arts;

note In re Sarkar 200 USPQ 132 (CCPA, 1978) where the process step of “constructing said obstruction within the actual open channel at the specified adjusted location indicated by the mathematical model” was held to be so tenuous connected to the remaining process steps as to not be a process with in the scope of 35 U.S.C. § 101.

Hence, the invention of claims 1-26 is merely directed to an hypothetical mental exercise that manipulates an abstract idea of creating a data base for tracking entered data/information with requiring that the data/information be used and hence is with out a claimed concrete and tangible practical application of the abstract idea, (note In re Beauregard 35 USPQ2d 1383 (CAFC 1995) and the associated claims of U.S. Patent 5,710,578; and State Street Bank & Trust Co. v. Signature Financial Group Inc. 47 USPQ2d 1596 (CAFC 1998)).

6.1.5 It is further noted that the type/nature of either the data or the calculated numbers does not affect the operation of the claimed invention and hence are considered to be non function descriptive material, (note In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)).

6.1.6 In practical terms, claims define nonstatutory processes if they:

A) consist solely of mathematical operations without some claimed practical application (i.e., executing a “mathematical algorithm”); or

B) simply manipulate abstract ideas, e.g., a bid (Schrader, 22 F.3d at 293-94, 30 USPQ2d at 1458-59) or a bubble hierarchy (Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759),

without some claimed practical application of the mathematics or abstract idea.

6.1.7 In view of the above analysis claims 1-26, as a whole, are directed to an hypothetical mental exercise that merely manipulates mathematics or an abstract idea without a claimed concrete and tangible practical application of the mathematics or abstract idea, and hence do not go beyond a merely manipulates mathematics or an abstract idea and therefore are directed to non-statutory subject matter.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.1 Claims 1, 2, 4, 7, 9-11, 15, 17, 21, 23 & 25 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by either Cecchetti et al (2001/0049654) or Allibhoy et al (2004/0153385).

7.1.1 In regard to claims 1, 2, 4, 7, 9-11, 15, 17, 21, 23 & 25, either Cecchetti et al ('654) or Allibhoy et al ('385) disclose a computer implemented tracking system which under the control of an operating program stored in the memory of the system creates a record of a transaction. Where the transaction is tracked by monitoring the status of various stages of the transaction as indicated by the input received from the various parties to the transaction and the expected estimated completion of a stage of the transaction. That is the parties to the transaction input data/information concerning each stage of the transaction that relates to that particular party via a network of computer systems that is web based. In this manner each party to the transaction may be prompted that the next stage is in progress.

7.2 Claims 3, 12, 18 & 24 are rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Allibhoy et al (2004/0153385).

7.2.1 In regard to claims 3, 12, 18 & 24, Allibhoy et al ('385) permits some targeted advertising in a web based environment and hence would include hyperlinks.

8. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(c) Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

8.1 Claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cecchetti et al (2001/0049654) as applied above to claim 23 and further in view of obvious considerations.

8.1.1 In regard to the types of stage listed in claim 26, since Cecchetti et al ('654) monitors transactions and one of ordinary skill would recognize that different transactions would have different completion requirements, it would have been obvious to one of ordinary skill at the time of the invention that the transaction record of Cecchetti et al ('654) would include all of the various stage that applicable to the transaction being monitored.

9. The following is an Examiner's Statement of Reasons for Allowance over the prior art:

A) in regard to claims 5, 13, 19, the prior art does not teach or suggest prompting the transaction coordinator to offer various services that are related to the transaction. Claims 6, 8, 14, 20 are allowable for the same reason.

B) in regard to claims 16, 22, the prior art does not teach or suggest preventing one party from viewing the notes of another party to the transaction.

10. The examiner has cited prior art of interest, for example:

A) Turnbull (5,208,765) which discloses a computer implemented system for tracking the various stages of a process.

B) Ramano which disclose that there is a wealth of information concerning real estate on the internet.

Art Unit: 3629

C) either Danielowski et al (EP 1022669 A2 or EP 1022669 A3) or Vinati et al (EP 1199655) which disclose the advertisement of rental properties by vendors over a network.

D) Bunyan et al (GB 2352307) which discloses a computer implemented system for tracking transactions.

10.1 The two foreign references that have been crossed off the PTO-1449 filed 19 June 2002 can not be found and appear to be improper citations because the document numbers are not consistent with proper WIPO document numbers.

11. The shorten statutory period of response is set to expire 3 (three) months from the mailing date of this Office action.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cosimano whose telephone number is (703) 305-9783 (after 13 April 2005 (571) 272-6802). The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703)-308-2702 (after 13 April 2005 (571) 272-6812). Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

12.1 The fax phone number for UNOFFICIAL/DRAFT FAXES is (703) 746-7240.

12.2 The fax phone number for OFFICIAL FAXES is (703) 872-9306.

12.3 The fax phone number for AFTER FINAL FAXES is (703) 872-9306.

03/19/05


Edward R. Cosimano
Primary Examiner A.U. 3629